

7535-01-U

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 722

Federal Credit Unions; Miscellaneous Technical Amendment

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final Rule.

SUMMARY: The National Credit Union Administration (NCUA) is amending its appraisal regulation regarding the transaction value for nonresidential loans that require an appraisal from a state-certified appraiser. This amendment is technical rather than substantive.

DATES: This rule is effective November 4, 2002.

FOR FURTHER INFORMATION CONTACT: Chrisanthy J. Loizos, Staff Attorney, Division of Operations, Office of General Counsel, (703) 518-6540, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314-3428.

SUPPLEMENTARY INFORMATION:

When adopting the Regulatory Flexibility Program in 2001, NCUA amended its appraisal rule to raise the threshold for requiring an appraisal for real estate-related financial transactions from those over \$100,000 to those over \$250,000. 66 FR 58656, 58662, Nov. 23, 2001. NCUA also removed the provision creating a different threshold for appraisals related to member business loans. *Id.* The amendment, therefore, raised the appraisal threshold for all real estate-related financial transactions, including member business loans, to \$250,000. The NCUA Board found that the raised appraisal threshold for a member business loan was consistent with the regulatory provisions adopted by the federal banking agencies.

In the 2001 rulemaking, NCUA amended the transaction value threshold in paragraph (a)(1), the paragraph that requires certain types of transactions to have appraisals. 12 C.F.R. §722.3(a). NCUA did not adjust the corresponding amount in paragraph (b)(2), the paragraph that determines the type of appraiser for certain nonresidential transactions, namely, member business loans. 12 C.F.R. §722.3(b)(2). This has caused some confusion. Under paragraph (b)(2), only nonresidential transactions with a transaction value over \$250,000 require an appraisal by a state-certified appraiser. 12 C.F.R. §§722.2(e), 722.3(a)(1), 722.3(b)(2). Some credit unions, however, have read the requirement in paragraph (b)(2) as requiring an appraisal for transactions with a value over \$50,000.

This amendment conforms the transaction value that triggers the requirement for a state-certified appraiser's appraisal in paragraph (b)(2) to the transaction value threshold in paragraph (a)(1), which initially determines if the rule requires any appraisal. The amendment clarifies that a federally insured credit union must have an appraisal prepared by a state-certified appraiser for a nonresidential transaction if the value of the transaction exceeds \$250,000.

Regulatory Procedures

Final Rule Under the Administrative Procedure Act

The amendment to the final rule is technical rather than substantive. NCUA finds good cause that notice and public comment are unnecessary under sec. 553(b)(B) of the Administrative Procedure Act (APA), 5 U.S.C. 553(b)(B).

Effective Date

NCUA also finds good cause to dispense with the 30-day delayed effective date requirement under sec. 553(d)(3) of the APA. The rule is technical rather than substantive. The rule will, therefore, be effective immediately upon publication of this notice.

Regulatory Flexibility Act

An initial regulatory flexibility analysis under the Regulatory Flexibility Act is required only when an agency is required to publish a general notice of proposed rulemaking for any proposed rule. 5 U.S.C. 603. As noted previously, NCUA has determined that it is unnecessary to publish a notice of proposed rulemaking for this rule. Accordingly, an initial regulatory analysis is not required. Moreover, since this final rule imposes no new requirements and makes only a technical amendment, NCUA has determined and certifies that this rule will not have any significant economic impact on a substantial number of small credit unions (primarily those under \$1 million in assets).

Small Business Regulatory Enforcement Fairness Act

Title II of the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 (Pub. L. 104-121) provides, generally, for congressional review of agency rules. A reporting requirement is triggered in instances where NCUA issues a final rule as

defined by Section 551 of the Administrative Procedures Act. 5 U.S.C. 551. The Office of Management and Budget has reviewed this rule and has determined that for purposes of the Small Business Regulatory Enforcement Fairness Act of 1996 it is not a major rule.

Paperwork Reduction Act

NCUA has determined that the final rule does not increase paperwork requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.) and regulations of the Office of Management and Budget.

Executive Order 13132 Statement

Executive Order 13132 encourages independent regulatory agencies to consider the impact of their regulatory actions on state and local interests. In adherence to fundamental federalism principles, NCUA, an independent regulatory agency as defined in 44 U.S.C. 3502(5), voluntarily complies with the executive order. NCUA has determined that this final rule does not constitute a policy that has federalism implications for purposes of the executive order.

List of Subjects

12 CFR Part 722

Credit unions, Mortgages, Reporting and recordkeeping requirements.

By the National Credit Union Administration Board on October 15, 2002.

Becky Baker
Secretary of the Board

For the reasons stated in the preamble, NCUA amends 12 CFR chapter VII as set forth below:

PART 722--APPRAISALS

1. The authority citation for part 722 continues to read as follows:

Authority: 12 U.S.C. 1766, 1789, 3339.

§ 722.3 [Amended]

2. Section 722.3(b)(2) is amended by replacing the number “50,000” with “250,000.”